United Nations A/76/PV.31

General Assembly

Seventy-sixth session

Official Records

31st plenary meeting
Thursday, 11 November 2021, 3 p.m.
New York

President: Mr. Shahid . . . . . (Maldives)

In the absence of the President, Mr. Salovaara (Finland), Vice-President, took the Chair.

The meeting was called to order at 3 p.m.

Agenda item 77 (*continued*)

Report of the International Criminal Court

Note by the Secretary-General (A/76/293)

Reports of the Secretary-General (A/76/291 and A/76/292)

Draft resolution (A/76/L.7)

Mr. Ndoye (Senegal) (*spoke in French*): My delegation would like to warmly thank Mr. Piotr Hofmański, President of the International Criminal Court, for his leadership of the Court and his thorough presentation of the report (see A/76/PV.29) of the Court covering the period from 1 August 2020 to 31 July 2021 (see A/76/293). My delegation would also like to express its warm congratulations and best wishes once again to President Hofmański and Mr. Karim Khan, Prosecutor of the International Criminal Court, and their colleagues for their unwavering commitment and professionalism in the exercise of their noble mission, which consists, among other things, of enabling the victims of the most serious crimes to obtain the right to justice.

Senegal takes note with great satisfaction of the report of the Secretary-General (A/76/292) on information relevant to the implementation of article 3 of the Relationship Agreement between the United Nations and the International Criminal Court, submitted pursuant to paragraph 12 of resolution 75/3, which attests to the excellent cooperative relations between the two institutions.

The consideration of the report of the Court for the period under review demonstrates its importance and place in the fight against impunity for perpetrators of the world's most serious crimes. The activities of the Court described therein attest to its outstanding contribution to bringing justice to thousands of victims around the world, thereby giving affected people the sense that humankind as a whole has heard their call.

On reading the Court's report, we also note that, despite the practical difficulties caused by the health crisis caused by the coronavirus disease pandemic, the Court made significant progress in its activities during the period under review. My delegation also welcomes the achievements of the Trust Fund for Victims, which continues to provide support and relief to thousands of victims in accordance with its mandate and to advance the implementation of the reparation orders issued.

As the first country to have ratified the Rome Statute of the International Criminal Court on 2 February 1999, Senegal has always cooperated fully with the judicial institution by playing its part in the emergence and promotion of international criminal justice.

It should be remembered that there can be no effective justice without the full protection of witnesses called to testify before the Court. It is essential that the International Criminal Court take all the appropriate measures to protect the safety and the physical and

psychological well-being of witnesses, as well as to protect their dignity and ensure respect for their privacy.

My delegation would like to take this opportunity to reiterate that the achievement of the Court's aspirations largely depends on the strong and constant support of the entire international community. It is therefore important for all States parties to the Rome Statute to make it a priority to preserve the independence of the International Criminal Court so that it can properly execute its mandate. In that regard, we must show commitment and determination by combining our efforts to strengthen and renew cooperation through frank and constructive dialogue among States parties.

We must also continue to work tirelessly for the universal ratification of the Rome Statute and the integration of its standards into the domestic law of States so that all victims around the world, wherever they reside, have an equal and fair opportunity to obtain justice.

Finally, we must maintain our commitment to strengthen complementarity by supporting national justice systems so that they are able to try the most serious crimes that offend our collective conscience in order that peace and stability may reign in all regions of the world.

Mr. Manalo (Philippines): The Philippines disassociates itself from the draft resolution contained in document A/76/L.7, which welcomes the report of the International Criminal Court for the period 2020 to 2021 (see A/76/293). The report contains references to the Philippines under the updates on judicial and prosecutorial activities in relation to crimes within the jurisdiction of the Court allegedly committed on the territory of the Philippines in the context of the war on drugs campaign. The Philippines expresses once again that it finds deeply regrettable the actions by the then outgoing Prosecutor of the International Criminal Court to seek judicial authorization to proceed with an investigation of the situation in the Philippines.

The Philippines underscores that an inter-agency review panel headed by the Secretary of Justice of the Philippines was established precisely to reinvestigate cases involving fatalities in the campaign against illegal drugs and is steadily proceeding with its work. Just last month, the Secretary of Justice of the Philippines referred to the Philippine National Bureau of Investigation cases that need to undergo further investigation and case build-up for possible filing of criminal charges.

The Rome Statute requires the Court and the Office of the Prosecutor to respect and defer to the primary criminal jurisdiction of a State party concerned while proceedings are ongoing in that State. The precipitate move by the Prosecutor, as reflected in the report, is a blatant violation of the principle of complementarity, which is a bedrock principle of the Rome Statute.

The Philippine Government in fact recently signed with the United Nations a joint programme on human rights, the first-ever United Nations joint programme on human rights in the Philippines, which puts together the capacities and resources of the United Nations in support of a wide range of national institutions. That affirms the adherence of the Philippines to human rights norms and its long track record of constructive engagement with international and regional partners in human rights promotion and protection.

As in all democracies, the wheels of justice sometimes turn slowly, but they do turn. The rule of law cannot, and should not, be compromised for immediate retribution. Notwithstanding our withdrawal from the Rome Statute, which was due to a principled stand against those who seek to politicize human rights, the Philippines affirms its commitment to fight against impunity for atrocity crimes. We have extensive national legislation punishing such crimes. The International Criminal Court may exercise jurisdiction only where national legal systems fail or are unable to do so. The International Criminal Court was never conceived or created as a substitute for national courts.

Finally, the International Criminal Court is a court of last resort. The States parties to the Rome Statute envisioned a court with complementary, and not primary, jurisdiction for the prosecution of the persons most responsible for the most serious crimes of international concern.

Mr. Roughton (New Zealand): New Zealand thanks President Hofmański for the report (see A/76/293) of the International Criminal Court and welcomes this opportunity to discuss the International Criminal Court's contribution to the international rule of law and its relationship with the United Nations.

We commend the progress made by the Court in 2020 and 2021, notwithstanding the continuing challenges presented by the coronavirus disease pandemic,

including through the use of such arrangements as hybrid in-person and virtual proceedings. We note with appreciation the Court's engagement with State parties to the Rome Statute, the United Nations, intergovernmental and regional organizations and civil society in order to enhance cooperation with, and support for, the Court.

New Zealand supports the International Criminal Court as a central pillar of the international rules-based order and international criminal justice. In delivering on its mandate to hold to account those individuals responsible for the most serious international crimes, the Court plays a crucial role within a broader system of domestic and international accountability mechanisms. We note that the cooperation and assistance provided by the United Nations provides invaluable assistance to the Court in being able to fulfil its mandate effectively.

We welcome the efforts made by the Court, the review mechanism and States parties in moving towards the implementation of the recommendations of the independent expert review in its September 2020 report, which provided important insights that were underpinned by a thorough examination of the Court system, including consultations with its staff and officials as well as States parties. We encourage all States parties to ensure their ongoing support for the Court through the implementation of appropriate recommendations.

New Zealand's view remains that States parties should focus on supporting the Court to consolidate its work in the exercise of its mandate and to focus on the investigation and prosecution of the most serious international crimes, consistent with the principle of complementarity.

New Zealand supports the Court's role as an independent judicial institution. That independence must be respected and protected to enable it to perform its functions. Earlier this year, we welcomed that the United States had withdrawn the visa restrictions and economic sanctions that had previously been imposed on the Court. New Zealand is also firmly of the belief that the mandate and credibility of the Court are intrinsically tied to its independence and impartiality.

We are grateful to the leadership of the United Nations in continuing to support and cooperate with the Court, in particular to the Secretary-General and the Under-Secretary-General for Legal Affairs as the interface between the Court and the United Nations system. In addition, we welcome the support provided to the Court by the wider United Nations system, including in regional offices, by providing essential operational support to the Court's activities, with the agreement and cooperation of host States.

New Zealand is committed to the Rome Statute and its underpinning principles of complementarity, cooperation and universality. We reiterate that the primary responsibility to take robust and appropriate measures when faced with the commission of international crimes lies with States. The Court is an independent court of last resort to try such crimes. Domestic courts and judicial processes that secure accountability for the perpetrators of international crimes are crucial to implementing the principle of complementarity. We encourage States parties that have not done so to consider incorporating Rome Statute crimes and principles into their domestic law.

Above all, New Zealand is committed to the Court and will work with others to ensure that the Court continues to be, and is seen to be, an effective and sustainable judicial institution.

Mr. Vitrenko (Ukraine): At the outset, I would like to thank the President of the International Criminal Court for the comprehensive presentation of the Court's activities (see A/76/PV.29).

Ukraine welcomes the report of the International Criminal Court for the period 2020 to 2021 (see A/76/293). The decision of the Court's Prosecutor on 11 December 2020 concerning the completion of its preliminary examination of the situation in Ukraine, concluding that there was a reasonable basis to believe that war crimes and crimes against humanity had been committed and that the statutory criteria for opening an investigation had been met, is well received in Ukraine.

It is important that, in this extraordinary time, the Court continue to receive cooperation from the United Nations on a wide range of issues. However, let me underline the direct linkage between the cooperation, assistance and support of States parties to the Rome Statute and the effectiveness of all Court activities, from ongoing investigations to judicial activities. Providing such cooperation is an additional contribution to the prevention of, and the fight against, impunity for the most serious crimes.

As one of the first States to support the idea of establishing a permanent treaty-based international

tribunal, Ukraine actively participated in the Preparatory Committee on the Establishment of an International Criminal Court and signed the Rome Statute in 2000. Subsequently, my country was among the first non-State parties to ratify the Agreement on Privileges and Immunities of the International Criminal Court.

Strongly believing in this court of last resort, on 17 April 2014 the Government of Ukraine lodged a declaration under article 12 of the Rome Statute accepting the jurisdiction of the International Criminal Court over crimes committed on its territory from 21 November 2013 to 22 February 2014.

On 8 September 2015, the Government of Ukraine lodged a second declaration under the same article of the Statute, accepting the exercise of jurisdiction by the International Criminal Court in relation to crimes committed on its territory starting from 20 February 2014 — since the beginning of the Russian military aggression against Ukraine.

Let me once again reiterate that those declarations were made for an indefinite duration. Therefore, the International Criminal Court will be able to exercise its jurisdiction over such crimes regardless of the nationality of persons who have committed them, even if they were citizens of third-party States.

Ukraine welcomes the fact that, during the reporting period, the Office of the Prosecutor continued to focus its analysis on crimes in Crimea and eastern Ukraine with a view to defining potential cases for investigation. The Prosecutor's report clearly states that there are sufficient grounds to believe that the crimes committed in both Crimea and Donbas fall within the Court's jurisdiction. Those crimes are nothing but war crimes and crimes against humanity, including a significant number of crimes against civilians.

As the Office of the Prosecutor recognized that the situation in Ukraine meets the criteria of the Rome Statute to open an investigation, we are looking forward to the next step — that of seeking judicial authorization to open such an investigation.

In its turn, Ukrainian law enforcement agencies, in cooperation with civil society organizations and human rights defenders, continued to document and provide the Court with additional information, facts and evidence related to both the nature of the existing armed conflict in Ukraine as an international armed conflict caused by a foreign armed aggression and the numerous war crimes committed by the aggressor State's armed forces, occupation authorities, personnel and proxies in the temporarily occupied territories of Ukraine.

Although the pandemic and limited resources may affect the work of the Court, we strongly believe in its prominent role in ensuring justice and fighting against impunity, including in the case of the Russian-Ukrainian armed conflict.

The demand of the people of Ukraine for justice, prosecution and holding to account of all perpetrators of grave crimes committed in the territory of Ukraine, including in the temporarily occupied Crimea, remains unwavering, as does the support of the Ukrainian Government for the work of the International Criminal Court.

Mr. Pieris (Sri Lanka): I would like to congratulate Judge Hofmański, President of the International Criminal Court, on the presentation (see A/76/PV.29) of the well-rounded report of the International Criminal Court (see A/76/293). Although Sri Lanka is not party to the Rome Statute, it keenly follows the rich jurisprudence associated with the Court and wishes to make a few observations with a view to provoking some thought with regard to its jurisdiction.

It is observed that the Statute refers to peace to some degree, by recognizing that grave crimes that deeply shock the conscience of humankind threaten the peace, security and well-being of the world, and it affirms that the most serious crimes of concern to the international community as a whole must not go unpunished. That was the primary reason for which the International Criminal Court was established, thereby stressing its primary judicial function of ending impunity and contributing to the prevention of such crimes.

Nonetheless, it must be appreciated that the Court's Statute was not drafted with a specific country situation in mind, as was the case with the ad hoc tribunals. It is observed that the Statute is concerned with the prosecution of crimes against humanity in peacetime, irrespective of the fact that the criminal act is not necessarily connected with an armed conflict.

It is therefore seen that the goals mentioned to be achieved by the International Criminal Court, in keeping with the resolutions and statutes establishing international criminal courts and tribunals, as well as by the domestic prosecution of international

crimes — especially within the framework of the Statute of the International Criminal Court — raises the following question: what were the precise parameters of the mandates of those international judicial tribunals?

Upon examination, the mandates of the tribunals appear to be twofold: on the one hand, dealing with impunity for serious criminal conduct affecting the international community and, on the other hand, dealing with the maintenance of peace and security. A matter that the International Criminal Court can, in my view, give its mind to is to whether there is a seamless cause and effect between respect for the rule of law and international peace and security, so that the implementation of a mandate to prosecute alleged criminality will in and of itself contribute to international peace and security.

To put it differently, is the capacity of the International Criminal Court — as the academics ask — to bring about security and stability strictly limited to the impact of its primary judicial function, or does it include other tasks that the tribunals have been entrusted with for achieving that objective? Those are matters for the consideration of the Court.

Although there is little doubt that the Court can contribute to peace and security in international relations and the prevention of the recurrence of such crimes, it remains to be answered to what extent the Court can go in making such contributions. It is observed that the Court and the tribunals are mandated to bring peace where there is conflict, provide reparation and re-establish the rule of law. All those objectives no doubt contribute to the establishment of peace and security, but do these goals fall within the competence of an international tribunal as far as they entail additional activities beyond the strict exercise of its judicial functions?

There appears to be no clear answer to those issues. We have heard statements made, even by the members of the international judiciary, that administering justice is the only task of an international criminal court, while reconciliation is a matter for national communities and institutions. Some academics are of the view that such a position appears to be too radical, in tracing a mutually exclusive separation of its jurisdiction. They say that leads to the neglect of the fact that a tribunal, notwithstanding its independence and impartiality, is not an abstract entity but operates within the social environment under the laws of which it was established.

In that scenario, we would do well to remember that criminal justice cannot be shifted entirely from the domestic to the international level and that the primary responsibility for prosecution rests with the States and their judiciaries.

The view has been expressed that international courts are a temporary and objectively limited replacement for domestic jurisdictions, which ultimately bear the primary responsibility for re-establishing the rule of law and restoring security and stability in the national society. They, too, must contribute to reaching those goals. How far that contribution can then go is a matter for each court to assess and may depend on the concrete situation in which the court is operating. However, that dual accountability of an international court should not, in my view, be glossed over.

We see that international criminal courts pursue a host of ambitious goals through their proceedings to establish the truth about alleged crimes, end impunity for international crimes and model respect for human rights in their proceedings. Yet, while those hallowed principles are highlighted in the Court's founding documents and in case law, in practice a less hallowed goal — namely, resolving cases efficiently — will soon become the central feature of the administration of international criminal justice.

That is probably through no fault of the Court; however, because donors and the Court administrators take stock of the substantial costs of international trials, they begin to place demands on judges, prosecutors and defence attorneys to do more with fewer resources.

Efficiency is no doubt an important goal for international criminal courts for a multitude of reasons. It enables defendants' rights to a speedy trial, promotes victims' interests and closure, conserves limited resources and helps provide justice in as many cases as possible. Yet, as the brief history of modern international criminal procedure has shown that we cannot sacrifice justice on the altar of expediency, as that can lead to the erosion of the protection of individual rights and the search for the truth.

We have seen that framed in some of the criminal tribunals of yesterday. Where the tribunal is under pressure from donors, managerial reforms have been introduced that resulted in impacts on the presentation of defences. We have observed that scholars, and even some judges, found that procedural reforms give undue precedence to judicial economy over fairness.

We observed that, in recent times, judges of the International Criminal Court have begun introducing reforms that aim to improve the efficiency of the Court, which no doubt is a good thing in principle and mitigates undue delay.

But a thought that worries defence counsels remains an unanswered question: does judicial managerialism also circumscribe defence activities? We must guard ourselves to ensure that judicial managerialism does not lead to restrictions of defence investigations. It is heartening to note that defence attorneys do not perceive judicial managerialism as an impediment to adequate representation at the International Criminal Court. We have heard them say that, while respondents complain about insufficient financial and institutional support for defence work, that responsibility should be placed on the Registry and States parties, and certainly not on our judges. The view was also expressed that defence attorneys thought judges should give greater weight to defendants' rights, inasmuch as they would wish to protect the rights and interests of victims.

It is clear that the International Criminal Court aims to promote not only justice but also peace. Notwithstanding what the critics have to say, the International Criminal Court has contributed significantly to the promotion of international justice and peace and has made a major impact on the prevention of crime, since its prosecutions represent a clear threat to highly placed individuals who commit serious crimes. Despite all that, it is a Court with an ethical aim — the prosecution of criminals — and it is gaining in legitimacy. It could attract States that want to show their support for the defence of human rights.

It has been said that the International Criminal Court must nonetheless guard itself from State leaders who ask it to act against respondents in order to reinforce their own regime and authority, thereby seeking to turn the Court into their political instrument. Any such overtures must be discouraged at the highest level. To do otherwise would contribute to the creation of an unjust, illegal system, as such political actors want the Court to focus on one side of the conflict. I would say that the Assembly is confident that the Court will respond to such overtures appropriately.

Sri Lanka thanks the President for giving it the opportunity to make the observations I have provided.

The Acting President: I now give the floor to the observer of the Observer State of Palestine.

Mr. Bamya (Palestine): International law is often elaborated in the aftermath of great tragedies and horrors. Often unable to prevent their occurrence, it aims to prevent their recurrence. In the post-Second World War era, humankind developed unprecedented and far-reaching instruments, adopting in the span of five years the Charter of the United Nations, the Universal Declaration of Human Rights and the Geneva Conventions of 1949, in one of the greatest leaps in the history of the advancement of international law and humankind.

We call the order that emerged at the end of that devastating war the rules-based multilateral order, or the international law-based order. We therefore acknowledged that international law is the defining line between order and chaos, between humanism and barbarism, between survival and extinction. Upholding international law is therefore the raison d'être of the United Nations. But if we speak of rules, we need to abide by them. Either their provisions need to be observed or those breaching them need to be held accountable.

Would you say that the rule of law is upheld in a country that has the best constitution, the best legislation, but in which the people who are breaching those instruments would not be held accountable by a court? It would be a difficult claim to make. A permanent court to prosecute crimes that strike at the very essence of our humanity is not only indispensable for victims who have no other avenue for justice and redress, but is also a milestone in the progress of human civilization. The International Criminal Court was not created to fill a gap but an abyss, a black hole that would devour all the light that generations have carried to us, enduring great sacrifices in the process.

As we declared from day one, we joined the Court seeking justice, not vengeance. We joined this court of last resort to prevent the recurrence of crimes against our people, because we believed the words and ideals enshrined in the Rome Statute and because we believed we were not less human or less deserving to enjoy the protection of international law.

It is puzzling to see those who might finally face prosecution one day, after 75 years of total impunity, be outraged before a court that offers the highest standards of fair trial, while they feel entitled to prosecute an entire nation before their military courts, which fail any standard of impartiality, in which the occupying Power is party and judge and in which one is condemned in

advance, a system that considers our representatives, our intellectuals, our human rights defenders, our children and our non-governmental organizations (NGOs) as terrorists and legitimate targets.

Only a few days ago, six of our very prominent NGOs were designated as terrorist organizations by Israel. I am sure that it is a complete coincidence that they are among the most prominent NGOs cooperating with the Court, and that a few days ago were discovered to have been hacked by Pegasus spyware. It is puzzling to see perpetrators of crimes argue quite seriously that prosecuting war crimes undermines the chances of peace, while pretending that the commission of war crimes is compatible with the search for peace.

It is a responsibility to stand at this podium. It is a responsibility to speak in this Hall, which has witnessed so much of human history unfold, including the struggle for liberation of so many here, notably against colonialism and apartheid. The Israeli representative stood behind this very podium only a few days ago (see A/76/PV.24), tore up the report (A/76/53 and A/76/53/Add.1) of the Human Rights Council and said here that the report belongs "in the dustbin of anti-Semitism".

That was not an isolated incident. Last February, the Israeli Prime Minister, after the opening of the International Criminal Court investigation, said that

> "When the International Criminal Court investigates Israel for fake war crimes — this is pure anti-Semitism",

adding that

> "we will fight this perversion of justice with all our might".

In 2016, when the Security Council adopted resolution 2334 (2016), the Israeli representative said that the resolution was "a victory for terror", calling it an "evil decree" — yes, a Security Council resolution was a called an evil decree — and compared it to the decrees of the times of the Maccabees.

Therefore, Palestinians are terrorists? Those supporting their rights and just and lasting peace in accordance with international law are anti-Semites? The General Assembly and its members are anti-Semites? The Security Council and its members are anti-Semites? The Human Rights Council and its members are anti-Semites? The International Court of Justice and the International Criminal Court are anti-Semites because they do not accept the illegal policies of the occupying Power?

Anti-Semitism is a serious matter. It led to one of the worst horrors humankind has ever witnessed, the Holocaust. It cannot be used and abused to shield the Israeli occupation from condemnation, or the perpetrators of crimes from being held accountable before the International Criminal Court.

Many Jews have been an integral part, or even been at the forefront of, the fight against colonialism and apartheid, for civil rights and, yes, for Palestinian rights, for the promotion and defence of international law, informed by their own history, their own suffering and their rejection of oppression, persecution, discrimination and injustice, regardless of the identity of the perpetrators and regardless of the identity of the oppressed.

What is expected from the countries represented here? To tear up the Charter of the United Nations? To tear up the Universal Declaration of Human Rights? To tear up the Geneva Conventions? To tear up the Rome Statute, which was 50 years in the making? Or to place an asterisk indicating that those rules apply to all countries except Israel? What should they do? Openly adopt double standards and say that those rules can be applied only to some and not others, that there are perpetrators who can never be held to account and victims who can always be deprived of justice? Not many would be comfortable with such destructive hypocrisy.

We decided at the end of the Second World War to build an international law-based order. We have enacted rules, not directed against anyone but for the benefit of all, so that humankind can act in a way that is compatible with that denomination, act humanely and advance a more just and peaceful world.

Having a court to uphold those rules in the face of the worst crimes — genocide, crimes against humanity, war crimes and the crime of aggression — striving towards its universal jurisdiction is our duty towards those who endured horrors in the past and those who are enduring them as we speak. It is our duty towards future generations, to spare them and protect them from the recurrence of such horrors. There is no cause more noble. There is no objective more deserving of our collective efforts.

The Acting President: We have heard the last speaker in the debate on this item.

We shall now proceed to consider draft resolution A/76/L.7, entitled "Report of the International Criminal Court".

Before giving the floor to speakers in explanation of position before taking action, may I remind delegations that explanations are limited to 10 minutes and should be made by delegations from their seats.

I give the floor to the representative of Israel.

Mrs. Weiss (Israel): As in previous years, Israel has decided to disassociate itself from consensus on draft resolution A/76/L.7 for the reasons it has expressed in the past. As early advocates for the establishment of an international criminal court and as the nation State of the Jewish people, we remain committed to ensuring that perpetrators of mass atrocities that deeply shock the conscience of humankind be held accountable. It could not be otherwise.

We hope that the reform agenda upon which the International Criminal Court has embarked will ensure that the Court lives up to its original mandate and brings an end to the politicization, double standards and misuse of the Court, which have squandered its limited resources and greatly undermined its core legitimacy and legal authority.

We would like to see the Court advance, in a genuine manner, the goals for which it was founded. In that spirit, we urge State parties and all key stakeholders to support measures that would align the Court's work with the objectives, principles and legal parameters envisioned by its founders.

The Acting President: We have heard the only speaker in explanation of position before action is taken on the draft resolution.

The Assembly will now take a decision on draft resolution A/76/L.7.

I give the floor to the representative of the Secretariat.

Ms. Ochalik (Department for General Assembly and Conference Management): I should like to announce that, since the submission of draft resolution A/76/L.7 and in addition to those delegations listed in the document, the following countries have also become sponsors of draft resolution A/76/L.7: Albania, Andorra, Australia, Austria, Barbados, Belgium, the Plurinational State of Bolivia, Bosnia and Herzegovina, Brazil, Canada, Colombia, Côte d'Ivoire, the Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Ghana, Guatemala, Hungary, Japan, Kiribati, Latvia, Montenegro, Nigeria, North Macedonia, Panama, Peru, Poland, the Republic of Korea, Samoa, San Marino, Senegal, Serbia, Spain, Switzerland, Trinidad and Tobago, Tunisia, Ukraine, Uruguay and Vanuatu.

The Acting President: May I take it that the General Assembly decides to adopt draft resolution A/76/L.7?

Draft resolution A/76/L.7 was adopted (resolution 76/5).

The Acting President: I shall now call on those representatives who wish to speak in explanation of position on the resolution just adopted. May I remind delegations that explanations are limited to 10 minutes and should be made by delegations from their seats.

Mr. Leonidchenko (Russian Federation) (*spoke in Russian*): The position of the Russian Federation on the activities of the International Criminal Court is well known. Many say that bringing perpetrators to justice is the key to peace. However, when a politicized international judiciary takes up the case, the opposite can be true.

The report (see A/76/293) under discussion today, like all such preceding reports, is evidence of the International Criminal Court's policy of selective justice. The Court continues to artificially adjust the provisions of the Rome Statute to one political situation or another, thereby discrediting the very idea of international criminal justice. In order to justify its own requests, the Court creatively interprets the norms of customary international law on the immunity of State officials.

Therefore, in considering the issue of the immunity of a Head of State, the Court concluded that the norms of international law concerning the immunity of officials from foreign criminal jurisdictions are — allegedly — inapplicable in the case of prosecution by international judicial bodies.

Such an interpretation runs counter to the practice and *opinio juris* of States that form customary international law. A loose interpretation of international customary law undermines the stability of the world order based on international law and threatens international peace and security by creating conditions for violations of

the fundamental principles of sovereign equality and non-interference in the internal affairs of States.

In no situation has the Court's work contributed to the stabilization of a country, either by preventing new crimes or promoting national reconciliation. All the positive developments that we have seen, whether in Libya or in Darfur, are solely due to the efforts of their citizens and their national authorities.

We have heard many calls for States to consider acceding to the Rome Statute. The Court itself was called a beacon of hope. We would urge captains not to follow the light of that false beacon of hope, lest they bring their ships to grief on the rocks.

In practice, enthusiasm for international criminal justice has led to the churning out of a number of politicized, quasi-judicial bodies that have nothing to do with the establishment of truth or the administration of justice. We would like to emphasize that the goal of bringing perpetrators to justice can be effectively achieved by national judicial systems.

Moreover, as practice has shown, that goal can be achieved with significant savings, in both procedural and material resources, as well as with a greater guarantee of due process and respect for the rights of participants in those proceedings.

In the light of what I have said, the Russian delegation does not support the consideration of the report of the Court and dissociates itself from the consensus on resolution 76/5.

I wish to conclude by making a few comments on the statements of the Georgian and Ukrainian delegations (see A/76/PV.30).

I will not comment on the clichés and baseless accusations that they listed. Instead, I will draw attention to something else: the rare case in which our evaluations of the International Criminal Court have something in common. Considering their appeals addressed the Court as well as their nature and substance, it is clear that those delegations also consider the Court to be a politicized instrument that has nothing to do with the search for truth and justice.

Mr. Altarsha (Syrian Arab Republic) (*spoke in Arabic*): While my country, Syria, fully respects the jurists who make up the International Criminal Court, its position regarding the Court is one of opposition. We reject the suspicious and unexamined tendencies by Governments of certain States regarding the expansion of the universal jurisdiction concept in an illegal and distorted manner. My country's position is also based on the rejection of unwise practices that those Governments have adopted when dealing with the concepts of justice, accountability and impunity, given that those practices are selective and imbalanced.

My country's delegation, driven by the spirit of cooperation, chose not to impede the discussion of this agenda item, but we reiterate that the delegation of my country, the Syrian Arab Republic, disassociates itself from the consensus on resolution 76/5, entitled, "Report of the International Criminal Court", especially given that my country is not a party to the Court and does not recognize the Court's competence or mandate.

The Acting President: We have heard the last speaker in explanation of position after adoption.

Before giving the floor to speakers in the exercise of the right of reply, may I remind members that statements in the exercise of the right of reply are limited to 10 minutes for the first intervention and five minutes for the second intervention and should be made by delegations from their seats.

I now give the floor to the representative of Israel.

Mrs. Weiss (Israel): Israel is once again deeply disappointed that certain actors here have decided to sidetrack this annual debate for their own narrow political goals and aspirations. As we have witnessed with other situations, conflicts cannot be solved on the battlefield or through heinous acts of terrorism using one's own civilians as human shields, by celebrating so-called humanitarian organizations that allow themselves to be fronts for terror, or by celebrating so-called martyrs who murder our innocent civilians, be they Jewish, Muslim, Druze or Christian.

I will say something on a very personal note — and I say it as a mother who has done serious mileage with her small children in bomb shelters and as an aunt of five nieces who live near the Gaza border and who have known only the threat of rocket fire for their entire young lives. I say it as a friend and a relative who has lost — as all my fellow countrymen and countrywomen have lost — precious loved ones to gruesome terrorist attacks. Our conflict cannot be solved in the courtroom with vexatious or frivolous litigation, be it at the International Criminal Court or elsewhere.

I actually agree with my Palestinian colleague that neither the Palestinians nor the Israelis are less human or less deserving. Indeed, we can pave the way to a better future for Palestinian children and for Israeli children — my own included — only when the Palestinian leadership finally decides to cease to act unilaterally and sits down at the negotiating table with a sincere and genuine readiness to discuss outstanding issues and accept necessary, albeit at times painful, compromises.

My Palestinian colleague can hurl false accusations at my country and cynically appropriate loaded terminology borrowed from important historic and current racial justice movements and — as someone who has never himself been a victim of anti-Semitism — he can mock and cheaply dismiss our pain, or insinuate that we are not human or do not act humanely, using classic anti-Semitic tropes that the speaker himself clearly has little understanding of.

But we all know full well that our conflict has nothing to do with race, and everything to do with messy, complicated, conflicting claims, legal and otherwise, that we will only be able to solve together, as partners sitting around the negotiating table and not as courtroom adversaries.

The Acting President: May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 77?

It was so decided.

The meeting rose at 4 p.m.